



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Before the Board of Patent Appeals and Interferences

Applicant : Jianlei Xie
Serial No. : 09/445,131
Filed : March 6, 2000
For : IDENTIFICATION OF PROGRAM INFORMATION ON A
RECORDING MEDIUM
Examiner : Joseph R. Haley
Art Unit : 2627

APPEAL BRIEF

May It Please The Honorable Board:

Appellants appeal the Final Rejection dated March 21, 2006 of Claims 1, 3-6 and 8-11 of the above-identified application. The fee of five hundred dollars (\$500.00) for filing this Brief and any associated extension fee is to be charged to Deposit Account No. 07-0832. Enclosed is a single copy of this Brief.

Please charge any additional fee or credit any overpayment to the above-identified Deposit Account.

Appellants do not request an oral hearing.

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Signature Filiz Karmuski Date: 10/6/06

I. REAL PARTY IN INTEREST

The real party in interest of Application Serial No. 09/445,131 is the Assignee of record:

Thomson Licensing S.A.
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II. RELATED APPEALS AND INTERFERENCES

There are currently, and have been, no related Appeals or Interferences regarding Application Serial No. 09/445,131.

III. STATUS OF THE CLAIMS

Claims 1, 3-6 and 8-11 are rejected and the rejection of claims 1, 3-6 and 8-11 is appealed. Claims 15 and 19-23 have been allowed.

IV. STATUS OF AMENDMENTS

All amendments were entered and are reflected in the claims included in Appendix I.

V. SUMMARY OF CLAIMED SUBJECT MATTER

Independent claim 1 describes a recording medium having a first and a second side including respective program data on the first and the second sides of the medium (Figures 7, element 701 and Page 9, lines 9-14). Each of a first area on the first side and a second area on the second side of the medium has disposed thereon distinctive laser encoded data representing information identifying the respective program data (Figures 7, element 701 and Page 8, lines 1-29). The first area and the second area are disposed between the center of the recording medium and an outer circumference (Figures 7, element 701 and Page 8,

lines 15-29). The respective program data is disposed outside the outer circumference (Figures 7, element 701 and Page 8, lines 15-29). The first area and the second area occupy non-overlapping positions with respect to each other and the first and second areas are burst cutting areas (Figures 7, element 701 and Page 8, lines 15-29).

Dependent claim 3 includes the medium of claim 1 along with the additional feature that the first area has substantially the same inner and outer circumferences but a different angular position from the second area (Figures 7-9 and Page 10, lines 14-27).

Dependent claim 4 includes the medium of claim 1 along with the additional feature that the first and second areas are positioned as concentric rings with respect to each other (Figures 7, element 701 and Page 9, lines 1-8).

Independent claim 6 describes a recording medium having a first layer and a second layer and each of the layers containing respective program data (Figures 6, element 601 and Page 8, lines 5-29). Each of a first area on the first layer and a second area on the second layer has disposed thereon distinctive laser encoded data representing individualized information (Figures 6, element 601 and Page 8, lines 5-29). The first area and the second area are disposed between the center of the recording medium and an outer circumference (Figures 6, element 601 and Page 8, lines 5-29). The respective program data is disposed outside the outer circumference (Figures 6, element 601 and Page 8, lines 5-29). The first area and the second area occupy non-overlapping positions with respect to each other and the first and second areas are burst cutting areas (Figures 6, element 601 and Page 8, lines 5-29).

Dependent claim 8 includes the medium of claim 6 along with the additional feature that the first area has substantially the same inner and outer circumferences but a different angular position from the second area (Figures 6, 8 and 9 and Page 10, lines 14-27).

Dependent claim 9 includes the medium of claim 6 along with the additional feature that the first and second areas are positioned as concentric rings with respect to each other (Figures 6, element 601 and Page 9, lines 1-8).

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Claims 1, 3, 5, 6, 8, 10 and 11 are rejected under 35 U.S.C. § 102(e) as being anticipated by Oshima et al. (U.S. Patent No. 6,081,785).

Claims 4 and 9 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Oshima et al. (U.S. Patent No. 6,081,785).

VII. ARGUMENT

Oshima does not anticipate claims 1, 3, 5, 6, 8, 10 and 11. Thus, reversal of the rejection of claims 1, 3, 5, 6, 8, 10 and 11 under 35 U.S.C. § 102(e) is respectfully requested. Moreover, Oshima does not make claims 4 and 9 unpatentable. Thus, reversal of the rejection of claims 4 and 9 under 35 U.S.C. § 103(a) is respectfully requested. Reversal of the Final Rejection (hereinafter termed "rejection") of claims 1, 3, 5, 6, 8, 10 and 11 under 35 U.S.C. § 102(e) and claims 4 and 9 under 35 U.S.C. § 103(a) is respectfully requested.

Overview of the Cited References

Oshima describes simplifying the operating and other procedures of an optical disk application system of the type for which a network is used. Optical disks have auxiliary data recording areas, where different IDs for individual disks, and/or cipher keys and/or decoding keys for ciphers are recorded in advance in a factory. By using the IDs to release the soft ciphers, using the cipher keys when sending the ciphers, and using the decoding keys when receiving the ciphers, user authorization procedures are simplified. (see Abstract).

Rejection of Claims 1, 3, 5, 6, 8, 10 and 11 under 35 USC 102(e)
over Oshima et al. (U.S. Patent 6,081,785)

Oshima does not anticipate claims 1, 3, 5, 6, 8, 10 and 11. Thus, reversal of the Final Rejection (hereinafter termed “rejection”) of claims 1, 3, 5, 6, 8, 10 and 11 under 35 U.S.C. § 102(e) is respectfully requested.

CLAIMS 1 and 5

Independent claim 1 provides for a recording medium having a first and a second side. Each of the two sides includes respective program data. Each of a first area and a second area of the medium has distinctive laser encoded data representing information identifying the respective program data. The first area on the first side and the second area on the second side are disposed between the center of the recording medium and an outer circumference. The program data is disposed outside the outer circumference. The first area and the second area occupy non-overlapping positions with respect to each other, and wherein said first and second areas are burst cutting areas on opposite sides of the disk.

Specifically, the present invention as recited in claim 1 provides “a recording medium having a first and a second side comprising: respective program data on said first and said second sides of said medium”. In contrast, Oshima neither discloses nor suggests these features. Oshima describes a pit portion of optical disks with an additional recording area or Burst Cutting Area (BCA) overwritten with a bar code. When the disks are manufactured, IDs differing for each disk and, according to the need, cipher keys for communication and decoding keys for decoding key cipher texts for communication, are recorded individually in the BCA area. The Office Action asserts that a recording medium having a first and second side comprising respective program data on the first and the second sides of the medium is described in column 2, line 40, of Oshima. Applicant respectfully disagrees. The text of column 2, line 40, of Oshima cited in the Office Action describes a communication cipher key distribution and crypto-communication with a BCA as shown in Figures 18, 19 and 20. There is no mention of a recording medium having a first and second side in this passage. Oshima only describes two areas on the same side of a recording medium. Thus, Oshima neither discloses nor suggests “a recording medium having a first and a second side comprising: respective program data on said first and said second sides of said medium” as recited in claim 1 of the present invention.

Furthermore, the Office Action contends that it is inherent that a two-sided disc would have areas on both sides. While two-sided discs do in fact have areas on both sides, Oshima combined with this inherent knowledge still neither discloses nor suggests “a first area on said first side and a second area on said second side of said medium...said first area and said second area occupying non-overlapping positions with respect to each other, wherein said first and second areas are burst cutting areas” as recited in claim 1 of the present claimed invention. The motivation behind providing non-overlapping positions for

first and second areas on respective first and second sides in the present invention is to prevent potential defects caused when burning the disk. The laser cutting process employed to remove the aluminum reflective surface to form a BCA may cause potential defects if multiple BCAs are used on a disk and different BCAs overlap each other. As shown in Figure 3B of the present claimed invention, as reflective layer 1 is melted away by a laser beam, layer 0 could also be inadvertently melted away by the same laser beam.

To overcome the potential defects associated with more than one BCA being used on a disk and having the different BCAs overlap each other, in the present claimed invention, the first and second BCA areas **occupy non-overlapping positions** with respect to each other. Furthermore, according to claim 1, the BCA areas recorded on opposite sides of the disk also occupy non-overlapping positions with respect to each other. As clearly shown in Figure 6 of the present claimed invention, layer 0 of side A, layer 1 of side A, layer 0 of side B, and layer 1 of side B all occupy non-overlapping positions. The motivation behind the non-overlapping BCA positions on opposite sides of the disk is also to prevent defects during the process of removing a portion of reflective layer 1. As reflective layer 1 on the first side is melted away by a laser beam, layer 0 on the second side could also be affected by the same laser beam during the melting process. Nowhere in Oshima is this problem recognized. Therefore, Oshima does not consider the solution of present invention and thus, does not anticipate the present invention as recited in claim 1. Specifically, Oshima neither discloses nor suggests “a first area on said first side and a second area on said second side of said medium...said first area and said second area **occupying non-overlapping positions** with respect to each other, wherein said first and second areas are burst cutting areas” as in the present claimed invention.

In the Advisory Action dated June 9, 2006 the Examiner admits that Oshima does not disclose or suggest reading from opposite sides of the recording medium but maintains that a dual-layer disc inherently has two sides. Specifically, the Examiner contends that the two information layers could be considered to be on opposite sides of the layer between the two information layers. Applicant respectfully disagrees. While Oshima describes an optical disk having two layers, the data recorded on both layers will always be on the same side of the recording medium. Contrary to the assertions of the Examiner, neither of the two layers has respective program data recorded on first and second sides of the layers since the data is recorded only on a single side of each layer. Nowhere in Oshima is a recording medium having respective program data on both sides of the medium disclosed or suggested. Thus, Oshima neither discloses nor suggests “a recording medium having a first and a second side comprising: respective program data on said first and said second sides of said medium” as recited in claim 1 of the present invention. Consequently, withdrawal of the rejection of claim 1 under 35 USC 102(e) is respectfully requested.

Dependent claim 5 is considered to be patentable based its dependence on independent claim 1. Therefore, the arguments presented above with respect to claim 1 also apply to claim 5. Consequently, it is respectfully requested that the rejection of claim 5 under 35 USC 102(e) be withdrawn.

CLAIM 3

Dependent claim 3 includes the features of independent claim 1 and therefore is considered patentable for the reasons presented above with respect to claim 1. Claim 3 is also considered patentable due to the additional feature that the first area has substantially

the same inner and outer circumferences but a different angular position from the second area.

Specifically, the present invention as recited in claim 3 provides that “said first area has substantially the same inner and outer circumferences but a different angular position from said second area”. Oshima neither discloses nor suggests this feature. As previously discussed in connection to claim 1, Oshima describes a pit portion of optical disks with an additional recording area or Burst Cutting Area (BCA) overwritten with a bar code. When the disks are manufactured, IDs differing for each disk and, according to the need, cipher keys for communication and decoding keys for decoding key cipher texts for communication, are recorded individually in the BCA areas. This is wholly unlike the present claimed invention which provides non-overlapping positions for BCA areas on first and second sides of a recording medium to overcome the potential defects associated with multiple BCA being used on a disk. Thus, the first area has substantially the same inner and outer circumferences but a different angular position from the second area. Oshima neither discloses nor suggests first and second areas on an opposing side of a disk having the same inner and outer circumferences but different angular positions. Thus Oshima neither discloses nor suggests “said first area has substantially the same inner and outer circumferences but a different angular position from said second area” as recited in claim 3.

In view of the above remarks regarding claims 1 and 3, it is respectfully submitted that the present invention as claimed in claim 3 is not anticipated by Oshima. Consequently, withdrawal of the rejection of claim 3 under 35 USC 102(a) is respectfully requested.

CLAIMS 6 and 10-11

Independent claim 6 provides for a recording medium having a first and a second layer and each of the layers containing a respective program area. The first layer has a first area and the second layer has a second area. Each area has disposed thereon distinctive laser encoded data representing individualized information. The first area and the second area are disposed between the center of the recording medium and an outer circumference. The program data is disposed outside the outer circumference. The first area and the second area occupy non-overlapping positions with respect to each other. The first and second areas are burst cutting areas.

Specifically, the present invention as recited in claim 6 provides “a first area on said first layer and a second area on said second layer, each said area having disposed thereon distinctive laser encoded data representing individualized information, said first area and said second area being disposed between the center of the recording medium and an outer circumference” and “said first area and said second area occupying non-overlapping positions with respect to each other, wherein said first and second areas are burst cutting areas”. In contrast, Oshima neither discloses nor suggests these features. Oshima describes a pit portion of optical disks with an additional recording area or Burst Cutting Area (BCA) overwritten with a bar code. When the disks are manufactured, IDs differing for each disk and, according to the need, cipher keys for communication and decoding keys for decoding key cipher texts for communication, are recorded individually in the BCA areas. While Oshima provides two recording layers, Oshima does not provide multiple BCAs. In fact, in Oshima a BCA flag is recorded in the control data of the first recording layer, indicating whether BCA information is recorded or not. To overcome the potential defects associated with more than one BCA being used on a disk and having the different BCAs overlap each

other, in the present claimed invention, the first and second BCA areas **occupy non-overlapping positions** with respect to each other. Nowhere in Oshima is this problem recognized. Therefore, Oshima does not consider the solution of present invention and thus, does not anticipate the present invention as recited in claim 6. Specifically, Oshima neither discloses nor suggests “a first area on said first layer and a second area on said second layer, each said area having disposed thereon distinctive laser encoded data representing individualized information, said first area and said second area being disposed between the center of the recording medium and an outer circumference” and “said first area and said second area occupying non-overlapping positions with respect to each other, wherein said first and second areas are burst cutting areas” as recited in claim 6 of the present invention. Consequently, withdrawal of the rejection of claim 6 under 35 USC 102(e) is respectfully requested.

Dependent claims 10-11 are considered to be patentable based on their dependence on independent claim 6. Therefore, the arguments presented above with respect to claim 6 also applies to claims 10-11. Consequently, it is respectfully requested that the rejection of claims 10-11 under 35 USC 102(e) be withdrawn.

CLAIM 8

Dependent claim 8 includes the features of independent claim 6 and therefore is considered patentable for the reasons presented above with respect to claim 6. Claim 8 is also considered patentable due to the additional feature that the first area has substantially the same inner and outer circumferences but a different angular position from the second area.

Specifically, the present invention as recited in claim 8 provides that “said first area has substantially the same inner and outer circumferences but a different angular position from said second area”. Oshima neither discloses nor suggests these features. As previously discussed in connection to claim 6, Oshima describes a pit portion of optical disks with an additional recording area or Burst Cutting Area (BCA) overwritten with a bar code. When the disks are manufactured, IDs differing for each disk and, according to the need, cipher keys for communication and decoding keys for decoding key cipher texts for communication, are recorded individually in the BCA areas. This is wholly unlike the present claimed invention which provides non-overlapping positions for BCA areas on first and second sides of a recording medium to overcome the potential defects associated with multiple BCA being used on a disk. Thus, the first area has substantially the same inner and outer circumferences but a different angular position from the second area. Oshima neither discloses nor suggests first and second areas on an opposing side of a disk having the same inner and outer circumferences but different angular positions. Thus Oshima neither discloses nor suggests “said first area has substantially the same inner and outer circumferences but a different angular position from said second area” as recited in claim 8.

In view of the above remarks regarding claims 6 and 8, it is respectfully submitted that the present invention as claimed in claim 8 is not anticipated by Oshima. Consequently, withdrawal of the rejection of claim 8 under 35 USC 102(a) is respectfully requested.

Rejection of Claims 4 and 9 under 35 U.S.C. 103(a) over Oshima et al. (U.S. Patent

No. 6,081,785)

In rejecting claims under 35 U.S.C. § 103, it is incumbent upon the examiner to establish a factual basis to support the legal conclusion of obviousness. *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596, 1598 (Fed.Cir. 1988). In so doing, the Examiner is expected to make the factual determinations set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 17, 148 USPQ 459, 467 (CCPA 1966), and to provide a reason why one having ordinary skill in the pertinent art would have been led to modify the prior art or to combine prior art references to arrive at the claimed invention. Such reason must stem from some teaching, suggestion, or implication in the prior art as a whole or knowledge generally available to one having ordinary skill in the art. *Uniroyal, Inc. v. Rudkin-Wiley Corp.*, 837 F.2d 1044, 1051, 5 USPQ2d 1434, 1438 (Fed.Cir. 1988), *cert. denied*, 488 U.S. 825 (1988); *Ashland Oil Inc. v. Delta Resins & Refractories, Inc.*, 776 F.2d 28, 293, 227 USPQ 657, 664 (Fed.Cir. 1985), *cert. denied*, 475 U.S. 1017 (1986); *ACS Hosp. Sys., Inc. v. Montefiore Hosp.*, 732 F.2d 1572, 1577, 221 USPQ 929, 933 (Fed.Cir. 1984). These showings by the Examiner are an essential part of complying with the burden of presenting a *prima facie* case of obviousness. *In re Oetiker*, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed.Cir. 1992).

Reversal of the rejection of claims 4 and 9 under 35 U.S.C. 103(a) as being unpatentable over Oshima et al. is respectfully requested because the rejection makes crucial errors in interpreting the cited reference. The rejection erroneously states that claims 4 and 9 are made unpatentable by Oshima.

CLAIM 4

Dependent claim 4 includes the features of independent claim 1 and therefore is considered patentable for the reasons presented above with respect to claim 1. Specifically, Oshima neither discloses nor suggests “a recording medium having a first and a second side

comprising: respective program data on said first and said second sides of said medium” in the present claimed invention. Oshima describes a pit portion of optical disks with an additional recording area or Burst Cutting Area (BCA) overwritten with a bar code. When the disks are manufactured, IDs differing for each disk and, according to the need, cipher keys for communication and decoding keys for decoding key cipher texts for communication, are recorded individually in the BCA areas. The Office Action asserts that a recording medium having a first and second side comprising respective program data on the first and the second sides of the medium is described in column 2, line 40, of Oshima. Applicant respectfully disagrees. The text of column 2, line 40, of Oshima cited in the Office Action describes a communication cipher key distribution and crypto-communication with a BCA as shown in Figures 18, 19 and 20. There is no mention of a recording medium having a first and second side in this passage. Oshima only describes two areas on the same side of a recording medium. Thus, Oshima neither discloses nor suggests “a recording medium having a first and a second side comprising: respective program data on said first and said second sides of said medium” in the present claimed invention.

Furthermore, the Office Action contends that it is inherent that a two-sided disc would have areas on both sides. While two-sided discs do in fact have areas on both sides, Oshima combined with this inherent knowledge still neither discloses nor suggests “a first area on said first side and a second area on said second side of said medium...said first area and said second area occupying non-overlapping positions with respect to each other, wherein said first and second areas are burst cutting areas” in the present claimed invention. The motivation behind providing non-overlapping positions for first and second areas on respective first and second sides in the present invention is to prevent potential

defects caused when burning the disk. The laser cutting process employed to remove the aluminum reflective surface to form a BCA may cause potential defects if multiple BCAs are used on a disk and different BCAs overlap each other. As shown in Figure 3B of the present claimed invention, as reflective layer 1 is melted away by a laser beam, layer 0 could also be inadvertently melted away by the same laser beam.

To overcome the potential defects associated with more than one BCA being used on a disk and having the different BCAs overlap each other, in the present claimed invention, the first and second BCA areas **occupy non-overlapping positions** with respect to each other. Furthermore, the BCA areas recorded on opposite sides of the disk also occupy non-overlapping positions with respect to each other. As clearly shown in Figure 6 of the present claimed invention, layer 0 of side A, layer 1 of side A, layer 0 of side B, and layer 1 of side B all occupy non-overlapping positions. The motivation behind the non-overlapping BCA positions on opposite sides of the disk is also to prevent defects during the process of removing a portion of reflective layer 1. As reflective layer 1 on the first side is melted away by a laser beam, layer 0 on the second side could also be affected by the same laser beam during the melting process. Nowhere in Oshima is this problem recognized. Therefore, Oshima does not consider the solution of present invention and thus, does not make the present claimed invention unpatentable. Specifically, Oshima neither discloses nor suggests “a first area on said first side and a second area on said second side of said medium...said first area and said second area **occupying non-overlapping positions** with respect to each other, wherein said first and second areas are burst cutting areas” as in the present claimed invention.

In the Advisory Action dated June 9, 2006 the Examiner admits that Oshima does not disclose or suggest reading from opposite sides of the recording medium but maintains that a dual-layer disc inherently has two sides. Specifically, the Examiner contends that the two information layers could be considered to be on opposite sides of the layer between the two information layers. Applicant respectfully disagrees. While Oshima describes an optical disk having two layers, the data recorded on both layers will always be on the same side of the recording medium. Contrary to the assertions of the Examiner, neither of the two layers has respective program data recorded on first and second sides of the layers since the data is recorded only on a single side of each layer. Nowhere in Oshima discloses or suggests a recording medium having respective program data on both sides of the medium. Thus, Oshima neither discloses nor suggests “a recording medium having a first and a second side comprising: respective program data on said first and said second sides of said medium” in the present claimed invention. Consequently, withdrawal of the rejection of claim 4 under 35 USC 103(a) is respectfully requested.

CLAIM 9

Dependent claim 9 includes the features of independent claim 6 and therefore is considered patentable for the reasons presented above with respect to claim 6. Specifically, the present claimed invention provides “a first area on said first layer and a second area on said second layer, each said area having disposed thereon distinctive laser encoded data representing individualized information, said first area and said second area being disposed between the center of the recording medium and an outer circumference” and “said first area and said second area occupying non-overlapping positions with respect to each other, wherein said first and second areas are burst cutting areas”. In contrast, Oshima neither discloses nor suggests these features. Oshima describes a pit portion of

optical disks with an additional recording area or Burst Cutting Area (BCA) overwritten with a bar code. When the disks are manufactured, IDs differing for each disk and, according to the need, cipher keys for communication and decoding keys for decoding key cipher texts for communication, are recorded individually in the BCA areas. While Oshima provides two recording layers, Oshima does not provide multiple BCAs. In fact, in Oshima a BCA flag is recorded in the control data of the first recording layer, indicating whether BCA information is recorded or not. To overcome the potential defects associated with more than one BCA being used on a disk and having the different BCAs overlap each other, in the present claimed invention, the first and second BCA areas **occupy non-overlapping positions** with respect to each other. Nowhere in Oshima is this problem recognized. Therefore, Oshima does not consider the solution of present invention and thus, does not make the present claimed invention unpatentable. Specifically, Oshima neither discloses nor suggests “a first area on said first layer and a second area on said second layer, each said area having disposed thereon distinctive laser encoded data representing individualized information, said first area and said second area being disposed between the center of the recording medium and an outer circumference” and “said first area and said second area occupying non-overlapping positions with respect to each other, wherein said first and second areas are burst cutting areas” in the present claimed invention. Consequently, withdrawal of the rejection of claim 9 under 35 USC 103(a) is respectfully requested.

VIII CONCLUSION

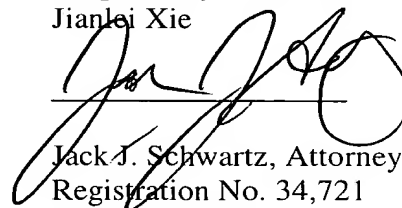
Oshima neither discloses nor suggests “a first area on said first side and a second area on said second side of said medium, each said area having disposed thereon distinctive laser encoded data representing information identifying said respective program data” and

“said first area and said second area occupying non-overlapping positions with respect to each other, wherein said first and second areas are burst cutting areas” as recited in claim 1 in the present claimed invention. Additionally, Oshima neither discloses nor suggests “a first area on said first layer and a second area on said second layer, each said area having disposed thereon distinctive laser encoded data representing individualized information, said first area and said second area being disposed between the center of the recording medium and an outer circumference” and “said first area and said second area occupying non-overlapping positions with respect to each other, wherein said first and second areas are burst cutting areas” as recited in claim 6 in the present claimed invention.

Accordingly it is respectfully submitted that the rejection of Claims 1, 3-6 and 8-11 should be reversed.

Respectfully submitted,
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**APPENDIX I - APPEALED CLAIMS**

1. (Previously Presented) A recording medium having a first and a second side comprising:

respective program data on said first and said second sides of said medium; and
a first area on said first side and a second area on said second side of said medium, each said area having disposed thereon distinctive laser encoded data representing information identifying said respective program data, said first area and said second area being disposed between the center of the recording medium and an outer circumference, said respective program data being disposed outside the outer circumference, and said first area and said second area occupying non-overlapping positions with respect to each other, wherein said first and second areas are burst cutting areas.

2. (Cancelled)

3. (Previously Presented) The medium of claim 1 wherein said first area has substantially the same inner and outer circumferences but a different angular position from said second area.

4. (Previously Presented) The medium of claim 1 wherein said first and second areas are positioned as concentric rings with respect to each other.

5. (Original) The medium of claim 1 wherein said medium is a DVD disk.

6. (Previously Presented) A recording medium comprising:
a first layer and a second layer, each of said layers containing respective program data;

a first area on said first layer and a second area on said second layer, each said area having disposed thereon distinctive laser encoded data representing individualized information, said first area and said second area being disposed between the center of the recording medium and an outer circumference, said respective program data being disposed outside the outer circumference, and said first area and said second area occupying non-overlapping positions with respect to each other, wherein said first and second areas are burst cutting areas.

7. (Cancelled)

8. (Original) The medium of claim 6 wherein said first area has substantially the same inner and outer circumferences but a different angular position from said second area.

9. (Original) The medium of claim 6 wherein said first and second areas are positioned as concentric rings with respect to each other.

10. (Original) The medium of claim 6 wherein said medium is a DVD disk.

11. (Original) The medium of claim 6 wherein said first and second layers are on the same side of said medium.

12. (Cancelled)

13. (Cancelled)

14. (Cancelled)

15. (Previously Presented) An apparatus for laser encoding a first and a second selectively distinctive codes on a recording medium, comprising:

means for encoding a first individualized code in a first predetermined position and in a first preselected layer on said recording medium, said first individualized code being associated with first program data; and

means for encoding a second individualized code in a second preselected position and in a second preselected layer of said recording medium, said second individualized code being associated with second program data, said first area and said second area being disposed between the center of the recording medium and an outer circumference, said first and second program data being disposed outside the outer circumference, and said first area and said second area occupying non-overlapping positions with respect to each other, wherein said first and second areas are burst cutting areas.

16. (Cancelled)

17. (Cancelled)

18. (Cancelled)

19. (Previously Presented) A method for processing a disk having a plurality of programs on said disk, comprising the steps of:

identifying a count representing the number of laser encoded areas on said disk, each one of said plurality of programs on said disk being uniquely associated with particular one of the laser encoded areas;

obtaining a first laser encoded data by reading from a first laser encoded area on said disk; and

obtaining a subsequent laser encoded data by reading from a subsequent laser encoded area on said disk until the number of laser encoded areas read equals to said count.

20. (Original) The method of claim 19, wherein said laser encoding areas are burst cutting areas for a DVD disk.

21. (Previously Presented) A optical disk having a first recording area where first main data are recorded in the form of pits, and a second recording area which is a predetermined area in the first recording area, where a plurality of a reflection film are removed partially, so a first identification data is recorded for associating with the first main data, the optical disk being characterized by:

a third recording area for recording second main data; and

a fourth recording area where a plurality of reflection film are removed partially, so a second identification data, which is distinctive with respect to the first identification data, is recorded for associating with the second main data, said second recording area and said fourth recording area being disposed between the center of the recording medium and an outer circumference, said first recording area and said third recording area being disposed outside the outer circumference, and said second recording area and said fourth recording area occupying non-overlapping positions with respect to each other, wherein said first and second recording areas are burst cutting areas.

22. (Previously Presented) A method for processing a disk, comprising the steps of:
obtaining, from the disk, a first individualized code disposed on a first area of the disk;

using the first individualized code obtained to process first data associated with the first code;

obtaining, from the disk, a second individualized code, which is distinctive with respect to the first individualized code, disposed on a second area of the disk; and

using the second individualized code obtained to process second data associated with the second individualized code, said first area and said second area being disposed between the center of the recording medium and an outer circumference, said first and second data being disposed outside the outer circumference, and said first area and said second area occupying non-overlapping positions with respect to each other, wherein said first and second areas are burst cutting areas.

23. (Previously Presented) A method for forming a disk, comprising the steps of:
encoding first main data on a first area of the disk; and
encoding a first individualized code on a second area of the disk for identifying the first main data;

encoding second main data on a third area of the disk; and

first individualized code, on a fourth area of the disk for identifying the second main data, said second area and said fourth area being disposed between the center of the recording medium and an outer circumference, said first area and said third area being disposed outside the outer circumference, and said second area and said fourth area occupying non-overlapping positions with respect to each other, wherein said first and second areas are burst cutting areas.

APPENDIX II - EVIDENCE

Applicant does not rely on any additional evidence other than the arguments submitted hereinabove.

APPENDIX III - RELATED PROCEEDINGS

Applicant respectfully submits that there are no proceedings related to this appeal in which any decisions were rendered.

APPENDIX IV - TABLE OF CASES

1. *In re Howard*, 394 F. 2d 869, 157 USPQ 615, 616 (CCPA 1968)
2. 29 AM. Jur 2D Evidence S. 33 (1994)
3. *In re Ahlert*, 424 F. 2d 1088, 1091, 165 USPQ 418, 420 (CCPA 1970)
4. *In re Eynde*, 480 F. 2d 1364, 1370; 178 USPQ 470, 474 (CCPA 1973)
5. *In re Fine*, 5 USPQ 2d 1600, (Fed Cir. 1988)
6. ACS Hospital Systems Inc v. Montefiore Hospital, 221 USPQ 929,933
(Fed. Cir. 1984)
7. *Graham v. John Deere Co.*, 383 U.S. 1, 17, 148 USPQ 459, 467 (CCPA 1966)
8. *Uniroyal, Inc. v. Rudkin-Wiley Corp.*, 837 F.2d 1044, 1051, 5 USPQ2d 1434, 1438
(Fed.Cir. 1988), *cert. denied*, 488 U.S. 825 (1988)
9. *Ashland Oil Inc. v. Delta Resins & Refractories, Inc.*, 776 F.2d 28, 293, 227 USPQ
657, 664 (Fed.Cir. 1985), *cert. denied*, 475 U.S. 1017 (1986)
10. *In re Oetiker*, 977 F2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992)

APPENDIX V - LIST OF REFERENCES

| <u>U.S. Pat. No.</u> | <u>Issued Date</u> | <u>102(e) Date</u> | <u>Inventors</u> |
|-----------------------------|---------------------------|---------------------------|-------------------------|
| 6,081,785 | June 27, 2000 | | Oshima |

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